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Attorney for Election Defense Alliance

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF RIVERSIDE

ELECTION DEFENSE ALLIANCE, an unincorporated association, Plaintiff/Petitioner, vs. BARBARA DUNMORE, in her official capacity as the Riverside County Registrar of Voters, and DOES 1-10, Defendants/Respondents.	CASE NO.: RICS41239 COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

Plaintiff/Petitioner, Election Defense Alliance, alleges:

I.

INTRODUCTION

This is an action to enforce the California Public Records Act (CPRA). The CPRA embodies a strong policy in favor of disclosure of public records, and any refusal to disclose public information must be based on a specific exception to that policy. (*California State University v. Superior Court* (App. 5 Dist. 2001) 90 Cal.App.4th 810.) The CPRA reflects the fundamental principle that government is the servant of the people, and not the master of them. The people, in delegating authority, do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The CPRA reflects the fact that citizens insist on remaining informed so that they may retain control over the instruments of government have created.

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The public has, as one of its most important interests, transparency in elections. As all political power resides with the people, transparent and accurate elections are the only legitimate way to transfer that power to the peoples' representatives. In order to ensure that state agencies are acting within the law, and to hold agencies accountable when they attempt to issue, utilize, or enforce rules or regulations not consistent with statute, especially those agencies that are the stewards of our elections, the public must have the ability to oversee those agencies to the highest degree possible. Access to agency documents, especially those agencies that serve as stewards of elections, is the primary method for public oversight.

In this case, Plaintiff/Petitioner Election Defense Alliance (hereafter "EDA") sought the production of records regarding the conduct of elections from the Registrar of Voters for the County of Riverside pursuant to the provisions of the CPRA. EDA's CPRA request is an attempt to verify the reported election results and compliance with the Elections Code. Defendants/ Respondents denied, in part, the request for records and failed to comply with the provisions of the CPRA by failing to produce public records, by failing to specifically identify exemptions that Defendants/Respondents claim are applicable, and by claiming exemptions that do not apply. In addition, Defendants/Respondents required the payment of fees not authorized by law to obtain records. EDA seeks a judicial determination as to the applicability of any exemptions claimed and whether Defendants/Respondents complied with the CPRA. EDA seeks a writ of mandate directing Defendants/Respondents to produce public records not subject to applicable exemptions and reimbursement of fees paid to obtain records provided.

II.

PRELIMINARY ALLEGATIONS

1. The superior court has jurisdiction over declaratory relief actions pursuant to Code of Civil Procedure section 1060.

2. The superior court has jurisdiction to issue writs of mandate pursuant to Code of Civil Procedure section 1085.

3. Pursuant to Government Code section 6258, any person may institute proceedings for

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

1   injunctive or declarative relief or for writ of mandate to enforce the CPRA.

2   4.   Pursuant to Government Code section 6259, venue is proper in the county where the

3   records are situated. On information and belief, the records are located in Riverside

4   County.

5   5.   Pursuant to Code of Civil Procedure section 369.5, an unincorporated association has

6   standing to sue.

7   6.   EDA, is an unincorporated association and a project of the International Humanities

8   Center, Inc., a California nonprofit corporation with principle offices in Los Angeles

9   County.

10   7.   EDA is beneficially interested in the issuance of the writ because it has a clear, present,

11   and substantial right to the performance of Defendants'/Respondents' duty to comply

12   with the CPRA.

13   8.   EDA is a community-based, public watchdog organization which publishes information

14   to educate citizens about the viability and conduct of elections.

15   9.   EDA, and all citizens of the County of Riverside, and those citizens of other counties in

16   the state who are subjected to the use of secretive electronic election systems, are persons

17   beneficially interested in the issuance of the writ because they have a clear, present, and

18   substantial right to the performance of Defendants'/Respondents' duty to comply with the

19   law.

20   10.   EDA brings these actions on behalf of itself, the press, the citizens of the County of

21   Riverside, and California citizens similarly situated.

22   11.   To the extent that the relief sought does not directly affect EDA's beneficial interest, this

23   petition/complaint is a citizen's action.

24   12.   The Riverside County Registrar of Voters office is an agency of the County of Riverside

25   and is organized and existing under the laws of the State of California.

26   13.   The Riverside County Registrar of Voters executive offices are located in Riverside

27   County.

28   14.   Defendant/Respondent Dunmore is the Riverside County Registrar of Voters appointed

3

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

1   by the County as the County's chief elections officer.

2 15.   Defendant/Respondent Dunmore is sued in her official capacity.

3 16.   The acts alleged herein are the implementation and execution of the official policy of the

4   county board of supervisors and each of them.

5 17.   The true names and capacities of Defendants/Respondents Does 1 through 10, inclusive,

6   are unknown to EDA and therefore sues Defendants/Respondents by such fictitious

7   names pursuant to California Code of Civil Procedure section 474. EDA will amend this

8   complaint/petition to allege the true names and capacities of the Defendants/Respondents

9   sued herein as Does 1 through 10, inclusive, when ascertained.

10 18.   EDA is informed and believes and thereon alleges that at all times herein mentioned each

11   individual Defendants/Respondents was an elected official, agent, servant, or

12   representative of each or some of the other co-Defendants/Respondents, and in doing

13   these acts herein referred to, each Defendants/Respondents was acting within the course

14   and scope of their authority as such elected official, agent, servant, representative, with

15   the express and/or implied approval, permission, knowledge, consent and ratification of

16   all co-Defendants/Respondents, and was in some manner responsible for the occurrence

17   hereinafter alleged, and such Defendants/Respondents are jointly and severally liable for

18   the injuries and damages hereinafter described.

19 19.   EDA does not have a plain, speedy and adequate remedy in the ordinary course of law

20   other than the relief sought in this petition because no other remedy will lead to the

21   production of the records.

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23   III.

24   FACTUAL SUMMARY

25 20.   On April 24, 2009, EDA submitted a request for specific records pursuant to the CPRA.

26   The request contained six items describing the categories of records sought.

27 21.   Attached hereto as Exhibit 1 is a true and correct copy of the request.

28 22.   On May 4, 2009, Defendants/Respondents responded to the records request.

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

23. Attached hereto as Exhibit 2 is a true and correct copy of the response.

24. EDA identified defects in the response.

25. The CPRA does not require any attempt to informally resolve disputes before seeking judicial intervention. However, EDA did attempt an informal resolution.

26. On June 19, 2009, EDA, followed up with the original request by addressing issues raised by Defendants'/Respondents' responses, and by providing clarification requested by Defendants/Respondents.

27. Attached hereto as Exhibit 3 is a true and correct copy of the June 19, 2009, follow up.

28. Twenty-five days later, on July 14, 2009, Defendants/Respondents provided a follow up response.

29. Attached hereto as Exhibit 4 is a true and correct copy of the follow up response dated July 14, 2009.

30. Attached hereto as Exhibit 5 is a true and correct copy of the EDA response to the demand for payment for electronic records dated August 14, 2009.

31. Attached hereto as Exhibit 6 is a true and correct copy of the response dated August 17, 2009, to Exhibit 5.

32. The responses cite no exemptions under the CPRA.

33. Defendants'/Respondents' responses to Items 1-6 are defective as follows:

ITEM 1

34. Item 1 sought records substantiating compliance with Elections Code section 15300, et seq., in the form of the original, unaltered and unlocked spreadsheet as used by the relevant elections officials to reconcile ballot counts on a precinct-by-precinct basis as needed to certify the election. Defendants/Respondents refused to produce the spreadsheet as used claiming that EDA was not permitted to see the manner in which the calculations were made within the spreadsheet. Instead, they produced a stripped down spreadsheet, an image of the spreadsheet as a .pdf file, and a 63 page comma delimited file which is one long string of alphanumeric characters. While comma delimited files can

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

be interpreted by using an appropriate spreadsheet, the file itself is non-responsive. The spreadsheet as used by Defendants/Respondents is a public record but was not produced.

35. In response to EDA's follow up request, Defendants/Respondents produced a new spreadsheet file claiming only the addition of a header row with six new headings. The new spreadsheet is different in other regards that do not resolve the defects. The records produced are not responsive, are evasive and unusable.

ITEMS 2 and 3

36. Item 2 sought records of the reconciliation required by Elections Code section 15302, subdivision (b). Item 3 sought records of the reconciliation of Elections Code section 15302, subdivision (c).

37. In response to Items 2 and 3, Defendants/Respondents did not produce the records pursuant to subdivision (b) or (c). Instead, they produced records related to the requirements of subdivision (d) of section 15302 which EDA did not request. In addition, Defendants/Respondents referred EDA to the defective records produced in response to Item 1, and offered the paper Ballot Statement forms and the analysis sheet associated with that form, plus sundry other forms. The records produced are not responsive, are evasive and unusable. The production was incomplete. The spreadsheet as used by Defendants/Respondents is a public record but was not produced. The response fails to satisfy the request for documentation that demonstrates compliance with the Elections Code.

38. In response to Item 3, Defendants/Respondents denied the request to copy the precinct roster citing "voter privacy." The claim of exemption is not cited to the CPRA and is not recognized by law.

39. In response to EDA's follow up request to Items 2 and 3, Defendants/Respondents produced what they claimed was, but is not, the same spreadsheet produced previously but with the inclusion of a header row. Defendants/Respondents also described the arithmetic allegedly used to produce the data in the spreadsheet. The calculations are

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

normally the function of the spreadsheet that was not produced. These additions did not resolve the defects in the responses.

ITEM 4

40.   Item 4 sought electronic audit and event logs, and directory listings, from four specific sources. In response to the request for logs, Defendants/Respondents referred EDA to a previous response to an unrelated CPRA request and otherwise denied the request claiming that the records "are not available due to reconfiguration of the Sequoia Voting System for the May 19th Statewide Special Election . . . ." The claim of exemption is not cited to the CPRA and is not recognized by law. In response to the request for directories, Defendants/Respondents produced several files of directories. The information in the files is incomplete because they lack the date/time information indicating when the file was loaded onto the computer and lacks an indication as to the size of files.

41.   In response to EDA's follow up request to Item 4, Defendants/Respondents offered paper, as opposed to electronic, records of Logic and Accuracy (L&A) Tests and DRE (direct recording electronic) Results Cartridges Uploads. Each relevant component of the elections system must be tested and events documented. The production is defective because Defendants/Respondents did not produce records for all of the relevant components of the elections system.

ITEM 5

42.   Item 5 sought electronic copies of election databases of the votes cast and counted. Defendants/Respondents denied the request claiming that "[t]he election's SQL database is proprietary." The claim of exemption is not cited to the CPRA and is not recognized by law.

43.   In response to EDA's follow up request to Item 5, Defendants/Respondents agreed to produce the records after redacting what they claimed were proprietary records and charged EDA $105.00 for the balance of the records. Defendants/Respondents justified the charge by citing staff time, the cost of electronic medium to store the files, and the

7

statement of the board of supervisors' official policy. The costs claimed are prohibited by law. EDA paid the charge under protest. Defendants/Respondents should be compelled to refund the money to EDA.

44. The SQL database is not propriety, it is a public record of the relevant public election and therefore not exempt. The public interest served by disclosure of the records sought here outweighs the public interest served, if any, by not disclosing the records.

ITEM 6

45. Item 6 sought the production of the documents used to generate or validate the data reported on the Statement of Vote.

46. In response to Item 6, Defendants/Respondents requested clarification which EDA provided.

47. In response to EDA's clarification of Item 6, Defendants/Respondents produced numbers, not documents. By not producing the documents, or identifying a specific exemption from the requirement to produce documents, Defendants/Respondents are in violation of the CPRA.

48. Because of defects in the Defendants'/Respondents' compliance with the CPRA, the official account of how the vote was tallied cannot be reconciled with the official published results of the elections in question.

IV.

FIRST CAUSE OF ACTION

DECLARATORY RELIEF

49. EDA realleges and incorporates by reference all paragraphs above and below as if set forth fully herein.

50. In enacting the Public Records Act, the legislature declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

51. Government Code section 6253, subdivision (a), of the CPRA requires that a public agency allow inspection of public records by any person requesting the records, and that any reasonably segregable portion of a record be available for inspection after deletion of the portions that are exempted by law.

52. Whether a public record may contain some exempt or confidential information does not justify withholding an entire document. Defendants/Respondents violated Government Code section 6253, subdivision (a).

53. Government Code section 6253.1 requires Defendants/Respondents to assist EDA by identifying records and information that are responsive to the request and provide suggestions for overcoming any practical basis for denying access to the records or information sought.

54. Under the CPRA, all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.

55. Government Code section 6255 requires Defendants/Respondents to justify withholding records by "demonstrating that the record in question is exempt under express provisions of this chapter. . . ." This requirement is non-discretionary.

56. Defendants/Respondents violated Government Code section 6255 by failing to cite specific exemptions to each of the records requested that they believe apply.

57. Defendants/Respondents abused their discretion by refusing to provide documents, or portions thereof, not subject to any exemptions.

58. Defendants/Respondents failed to carry out non-discretionary, mandatory duties pursuant to the CPRA.

59. The records sought by EDA are not subject to any specific exemptions to the CPRA.

60. Pursuant to Government Code section 6255, the public interest served by disclosure of the records sought here outweighs the public interest served, if any, by not disclosing the records.

61. In this state, no absolute trade secrets exemption exists. No trade secrets exemption is applicable in this case because a failure to disclose the public records here on the grounds

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that they contain trade secrets would tend to conceal fraud or otherwise work injustice.

62. The California Secretary of State is authorized to certify election systems when the election system is certified to meet security requirements established by state and federal law. These security requirements prohibit proprietary software from being inserted into election databases to prevent the subversion of elections.

63. The violations complained of here undermine the intent of the CPRA because they are an attempt to conceal essential election processes from the public.

64. Government Code section 6253.9 requires public records that are in an electronic format to be made available in the electronic format in which the information is held.

65. Defendants/Respondents violated Government Code section 6253.9.

66. Government Code section 6253, subdivision (c), mandates that Defendants/Respondents respond in 10 days.

67. Government Code section 6259, subdivision (a), provides that the Court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code (trade secret, et al.). EDA requests that, if necessary, the court review in camera those records Defendants/Respondents claim are exempt.

68. Should the Court undertake a review of the records, EDA proposes the appointment of a special master, or an independent expert, to properly appreciate the significance of the records.

69. Responses from Defendants/Respondents, simply ignored, or otherwise provided in bad faith.

70. In order to defeat the intent of the CPRA, Defendants/Respondents have adopted the tactic of ignoring requests or providing responses that are vacuous, evasive, vague and ambiguous, misleading, or not responsive. The tactic is designed to confuse, frustrate, and wear down the public based on the historic record that citizens are unlikely to have the expertise, tenacity, or endurance to refute or challenge those responses.

71. In order to vindicate the legislative intent of the CPRA, and to enforce its provisions, EDA has no choice but to obtain the relief sought herein.

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

72. EDA seeks a judicial determination of the applicability of any exemptions as claimed by Defendants/Respondents.

73. EDA seeks a judicial determination of Defendants'/Respondents' compliance with the CPRA and a vindication of the public's rights under the CPRA.

V.

SECOND CAUSE OF ACTION

WRIT OF MANDATE

74. EDA realleges and incorporates by reference all paragraphs above and below as if set forth fully herein.

75. EDA has a right to obtain public records under the CPRA from Defendants/Respondents.

76. Defendants/Respondents have a duty to timely respond to requests under the CPRA, to produce public records, to assist with identifying records and information that are responsive to a request, and to demonstrate that the specific records in question are exempt under express provisions of the CPRA.

77. EDA and the citizens of this state do not have a plain, speedy and adequate remedy in the ordinary course of law other than the relief sought in this complaint/petition in that they cannot compel Defendants/Respondents to comply with the law except through a judicial process.

78. EDA requests that the court issue a writ of mandate directing Respondents, and each of them, to comply with their obligations under the CPRA and to produce the public records sought.

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VI.

DISCOVERY

79. Pursuant to Code of Civil Procedure section 2017.010, et seq., EDA intends to undertake formal discovery, including the depositions of percipient witnesses, persons most qualified, and relevant third parties.

80. Should it be necessary, EDA will seek an order from the Court permitting such discovery.

WHEREFORE, Plaintiff/Petitioner, Election Defense Alliance, prays for judgment, against Defendants/Respondents, and each of them, as follows:

As to the First Cause of Action:

1. Declaring that Defendants violated the CPRA when they failed to demonstrate that the records in question are exempt under express provisions of the CPRA.

2. Declaring that Defendants required the payment of fees not permitted by law.

3. Declaring that Defendants failed to carry out their mandatory duties pursuant to the CPRA when they failed to properly respond to the requests, when they failed to provide records in a useful form, and when they denied the requests for public records without justification.

4. Declaring that Defendants abused their discretion when they failed to properly respond to the requests for public records, when they failed to provide records in a useful form, and when they denied the requests for public records without justification.

As to the Second Cause of Action:

5. For the issuance of a writ of mandate compelling Barbara Dunmore and agents of the Registrar of Voters office, and their successors, to comply with each of the provisions of the CPRA and to produce those records responsive to Plaintiff's CPRA request, and all such requests by citizens in the future.

As to all causes of action:

6. Reasonable attorney's fees and costs of suit pursuant to Government Code section 6259,

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

1   Code of Civil Procedure section 1021.5, and other relevant statutes.

2 7.   For such other and further relief as the court deems just and proper.

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6 Dated: November 11, 2009   Signed: _Ken Karan_____

7   Ken I. Karan, Esq.
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                                       760-420-5488 Fax: 866-841-5420
9   kkaran.law@gmail.com

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COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

VERIFICATION

I, Daniel Ashby, am the authorized representative of the Election Defense Alliance. I

have personal knowledge of the facts stated herein except for those facts known on information

and belief, and as to those I believe them to be true. I declare under penalty of perjury under the

laws of the State of California that the foregoing is true and correct.

Dated: **11-9-09**   Signed: _Daniel Ashby_
                                                              Daniel Ashby

COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR WRIT OF MANDATE

EXHIBIT 1

<u>CALIFORNIA PUBLIC RECORDS ACT (CPRA) REQUEST FOR PUBLIC INFORMATION</u>

April 24, 2009

Ms. Barbara Dunmore
Riverside County Registrar of Voters
2724 Gateway Drive
Riverside, CA 92507-0918

Dear Ms. Dunmore,

On behalf of myself and Election Defense Alliance, pursuant to the rights of citizens under the California Public Records Act (Government Code Section 6250, et seq.) and the California Constitution as amended by passage of Proposition 59 on November 3, 2004, I am seeking copies of the following public records related to the November 4, 2008 Presidential General Election in Riverside County, CA which I understand to be in the possession of your agency.

"DOCUMENT" means records, reports, correspondence, agreements, receipts, and other WRITINGs.

"WRITING" means handwriting, typewriting, printing, Photostatting, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

I am requesting the production of the following <u>documents</u>, all in original electronic format as required by Government Code Section 6359:

1. The final electronic version of the Ballot Reconciliation Excel Spreadsheet in unlocked and unblocked format including totals for all columns containing numbers. If some columns did not contain a complete set of data (e.g. "Total of Provisional Electronic Signatures (from Rosters)"), please do not add data into those columns for purposes of responding to this request. Please illustrate where on the documents the reader can find the data that reconciles or validates the data required by EC§ 15300 et seq.

2. All documents that were prepared to satisfy Election Code Section 15302(b) regarding required official canvass tasks which reads "a reconciliation of the number of signatures on the roster with the number of ballots recorded on the Ballot Statement." Please illustrate where on the documents the reader can find the data that reconciles or validates the requirements of EC§15302(b).

3. All documents that were prepared to satisfy EC§15302(c) which reads "In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement." Please illustrate where on the documents the reader can find the data that reconciles or validates the requirements of EC§ 15302(c).

4. An electronic copy of each of the audit and event logs including directory listings from:
   a. the central tabulator,
   b. each of the eight Sequoia Optech 400C scanners,
   c. each of the Sequoia Edge II DRE (Direct Recording Electronic) units, and
   d. any other computers of the Sequoia Voting System used in the November 4, 2008 Election.

The logs requested are those that document any activity related to the November 4 election, including, but not limited to, the testing of the ballot definition files, the Logic and Accuracy (L&A) tests performed on all of the DREs utilized for the November 4 election, and all DRE Results Cartridges uploads. The period covered by this request is August 1, 2008 to February 28, 2009.

5. Electronic copies of the election databases (including backup copies) for the period beginning with the first election database produced for the November 2008 Election to the last election database produced for the November 2008 Election.

6. An electronic copy of the documents used to generate or validate the data reported on the Statement of Vote (SOV), including but not limited to the totals of "Ballots Cast at Polls" and "Ballots Cast via Vote-By-Mail." Please illustrate where on the documents the reader can find the data that reconciles or validates the data on the Statement of Vote.

Pursuant to Government Code section 6253.9, subdivision (a)(2), I request that you make information that constitutes an identifiable public record that is in an electronic format available in the electronic format in which you hold the information.

I ask for a determination on this request within 10 days of your receipt of it, and an even earlier reply if you can make that determination without having to review the records in question.

I ask that you notify me of any costs involved prior to incurring those costs.

Please treat this request as severable. That is, should you determine that one or more portions of the request cannot be released, please state the legal basis for such non-release, and release the remaining portions expeditiously as required by Government Code Sections 6250 et seq.

If you determine that any or all of the information is exempt from disclosure, I ask that you reconsider that determination in view of Proposition 59, which has amended the California Constitution to require that all exemptions be "narrowly construed." The newly amended Government Code, section 6250, et seq., may modify or overturn authorities on which you have relied in the past.

If you nonetheless determine that the requested records are subject to a still-valid exemption, I would further request that: (1) you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and (2) that, with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest.

Finally, should you deny part or all of this request, you are required to provide a written response describing the legal authority or authorities on which you rely.

If you need clarification that will help expedite the processing of this request, please contact me by telephone at 510 233 2144 and e-mail at Info@ElectionDefenseAlliance.org.

I look forward to your prompt and professional compliance with this request.

Sincerely,

Daniel Ashby

Daniel Ashby
Co-founder and Director
Election Defense Alliance

TO: Mr. Daniel Ashby
           Election Defense Alliance

EXHIBIT 2

From: Douglas C. Kinzle
           Assistant Registrar of Voters
           Riverside County

Re: Your CPRA request of April 24, 2009 received April 27, 2009

Your requests and our responses follow:

1. The final electronic version of the Ballot Reconciliation Excel Spreadsheet in unlocked and unblocked format including totals for all columns containing numbers. If some columns did not contain a complete set of data (e.g. "Total of Provisional Electronic Signatures (from Rosters)"), please do not add data into those columns for purposes of responding to this request. Please illustrate where on the documents the reader can find the data that reconciles or validates the data required by EC§ 15300 et seq.

> *The electronic version of the ballot reconciliation spreadsheet and a comma delimited text file of the data for your analysis is attached to the e-mail sending you this memo.*

2. All documents that were prepared to satisfy Election Code Section 15302(b) regarding required official canvass tasks which reads "a reconciliation of the number of signatures on the roster with the number of ballots recorded on the Ballot Statement." Please illustrate where on the documents the reader can find the data that reconciles or validates the requirements of EC§15302(b).

> *The ballot reconciliation process is performed on the spreadsheet in item 1. The input documents to that sheet are on paper or extracts from our tally system or other excel spreadsheets. The paper Ballot Statement forms and the analysis sheet associated with that form, plus sundry other forms total around 1,500 pages for the 721 polling places. These forms are available for review in our office or copies can be provided at 50 cents for the first page of every document and 10 cents for subsequent pages. Please let us know how to proceed.*

3. All documents that were prepared to satisfy EC§15302(c) which reads "In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement." Please illustrate where on the documents the reader can find the data that reconciles or validates the requirements of EC§ 15302(c).

> *The response to this item is the same as item 2 with the added clarification that to review the actual reconciliation of a discrepancy you would have to view the polling place rosters. These forms are available for review in our office. Copies of these documents are not available through copies to protect voter privacy. Please let us know how to proceed.*

4. An electronic copy of each of the audit and event logs including directory listings from:

a. the central tabulator,
b. each of the eight Sequoia Optech 400C scanners,
c. each of the Sequoia Edge II DRE (Direct Recording Electronic) units, and
d. any other computers of the Sequoia Voting System used in the November 4, 2008 Election.

> *Copies of some of the requested electronic logs are available from an earlier CPRA request and are attached to this e-mail. The remaining electronic logs are not available due to reconfiguration of the Sequoia Voting System for the May 19th Statewide Special Election pursuant to the Secretary of State recertification requirements.*

The logs requested are those that document any activity related to the November 4 election, including, but not limited to, the testing of the ballot definition files, the Logic and Accuracy (L&A) tests performed on all of the DREs utilized for the November 4 election, and all DRE Results Cartridges uploads. The period covered by this request is August 1, 2008 to February 28, 2009.

> *Paper logic and accuracy testing logs are available for each DRE and 400C scanner for review in our office. Alternatively the approximate 800 pages can be copied at a cost of 50 cents for each first page document and10 cents for each subsequent page. Please let us know how to proceed.*

5. Electronic copies of the election databases (including backup copies) for the period beginning with the first election database produced for the November 2008 Election to the last election database produced for the November 2008 Election.

> *The election's SQL database is proprietary. Its release poses an information security risk. Additionally, the files are a record of the election and sealed under the same conditions as the ballots for the 22 month retention period.*

6. An electronic copy of the documents used to generate or validate the data reported on the Statement of Vote (SOV), including but not limited to the totals of "Ballots Cast at Polls" and "Ballots Cast via Vote-By-Mail." Please illustrate where on the documents the reader can find the data that reconciles or validates the data on the Statement of Vote.

> *It is unclear to us what documents you are seeking beyond what you have already requested. Please be more specific in your request.*

EXHIBIT 3

CALIFORNIA PUBLIC RECORDS ACT (CPRA) REQUEST FOR PUBLIC INFORMATION

Clarification of APRIL 24, 2009 CPRA Request

June 19, 2009

Ms. Barbara Dunmore
Riverside County Registrar of Voters
2724 Gateway Drive
Riverside, CA 92507-0918

Dear Ms. Dunmore,

The response to our previous public records request that we received from your office dated May 4, 2009 was non-responsive to a number of our requests, and requested further direction from EDA.

1. **Thank you for providing the document requested in Item 1 of our request.**

2. **You asked for our direction in further responding to Items 2 and 3 in our CPRA request of 04.29.09.**

You provided us with an Excel spreadsheet without any indication of where the required reconciliation occurs. If a reconciliation is contained in the spreadsheet, indicate where (what cells) such reconciliation may be observed. Illustrate where/how you comply with either of the two sections of the Election Code quoted below:

a). "a reconciliation of the number of signatures on the roster with the number of ballots recorded on the Ballot Statement" can be found, -- EC§15302(b) or if unable, then

b). ". . . the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement." -- EC§15302(c)

If the ROV does not have documents that satisfy either of the two legal requirements [EC§15302 (b) or (c)], please so indicate.

3. In Item 4 of our CPRA request of 4.24.09, we requested:

" . . . logs . . . including but not limited to:

a). the testing of the ballot definition files,

b). the Logic and Accuracy (L&A) tests performed on all of the DREs utilized for the November 4 election, and

c). all DRE Results Cartridges uploads. The period covered by this request is August 1, 2008 to February 28, 2009."

The ROV reply was only partially responsive, addressing only the Logic and Accuracy testing logs. Please address the requests related to testing of ballot definition files and DRE Results Cartridge uploads.

We (EDA) would like to view the paper Logic & Accuracy test logs offered by the ROV.

Unless you indicate to the contrary, we will send a representative to your office **on July 1, 2009 at 1:30 p.m**. to view these documents.

The representative may decide to scan or photograph none, some, or all of the documents presented.

4. We wish to clarify our request for **directory listings**, stated as **item #4** in our CPRA request of 04.24.09.

We request you create directory listings for all computers comprising the Sequoia Voting System used by Riverside County including, but not limited to, those computers used to operate:

a). each of the Optech 400C scanners and their master computer (each running the WinETP application); and

b). those computers running the WinEDS and/or Microsoft SQL applications.

For each computer, issue the following command at the c:\ command prompt:

dir c:*.* /s / > c:\stationname_cdrive_directorylisting.txt

and, if there is a d: drive as well, at the d:\ command prompt:

dir d:*.* /s > d:\stationname_ddrive_directorylisting.txt

where "*stationname*" is to be the full computer name of the computer and which can be found on each computer by selecting the following menus and tab in turn:

Start -> Control Panel -> System -> Computer Name.

This electronic text file will be created at the root level of drive c: (or drive d:) and will contain filesize and last date modified information.
Do not delete or alter any of the information in the text files produced. We are requesting each of those text files as a public record.

5. **The ROV response to Item 5 of our CPRA request of 04.29.09 was to refuse to release the requested databases stating that "***the election's SQL database is proprietary***."**

Under what authority are records of the vote in the election database deemed to be proprietary? By definition, a database is comprised of data, not program code. The data in the database is public information and subject to release under the CPRA. Voter registration records and election results are public. **Cal. Elec. Code §§ 606, 17120, 17122**.

The fact that public records may be stored in a computer does not affect their status as public records. **Cal. Gov't Code § 6254.9(d).**
Therefore, we again request the release of these election database records, specifically **all the .MDB files**.

Assistant Registrar Kinzle's response letter of May 4, 2009, included the statement that *" . . . the files are a record of the election and sealed under the same conditions as the ballots for the 22 month retention period."*

We have read the relevant sections of the California Election Code and find no reference to election databases (or any electronic data of any kind) in the definition of election materials that are to be sealed and preserved for 22 months following a federal election, prior to destruction. Unless you can produce any explicit exemption or substantiate any exceptional exemption per section **6255** of the California Public Records Act, **please deliver the election database files** as specified in our CPRA letter of 04.29.09.

6. **You asked for more information regarding item #6 listed in our CPRA request dated April 24, 2009.**

We are seeking the following information related to the November 4, 2008 Presidential election from the Sequoia Election Information Management System (EIMS) used by Riverside County:

    a). Number of Vote By Mail (VBM) ballots ordered from vendor
    b). Number of VBM ballots received by ROV from vendor
    c). Number of VBM ballots mailed out
    d). Number of VBM ballots returned by voters to ROV
    e). Number of VBM ballots rejected (challenged) by ROV
    f). Number of VBM ballots accepted by ROV The equivalent to the Sequoia EIMS in the Diebold voting system, is DIMS-Net. The DIMS-Net application is a Diebold/Premier system for communicating with the statewide database and can certainly produce the information requested above which was also previously implied in item #6 of our original CPRA letter 04.29.09

As an example, an R709.07 "Absentee Voter Ballot Statistics" report can be generated by the DIMS-Net application. Please provide us the functionally equivalent report generated by the Sequoia EIMS system.

Electronic Format
Pursuant to Government Code section 6253.9, subdivision (a)(2), I ask that any information we seek that constitutes an identifiable public record, and that is available in an electronic format, be provided in the same electronic format in which you hold the information, or in the format that has been used by your agency to create copies for your own use or for provision to other agencies. **Cal. Gov't Code § 6253.9(a)(2).**

10-Day Response
I ask that your determination in response to this present public records request dated June 19, 2009, be relayed to me within 10 days of your receipt of this request, and an even earlier reply if you can make that determination without having to review the records in question.

Cost Disclosure
I ask that you notify me of any costs involved prior to incurring those costs.

Terms of Request Are Severable
Please treat the terms of this request as severable. That is, should you determine that one or more portions of the requested information cannot be released, please state the legal basis for such non-release, and release the remaining portions expeditiously as required by Government Code Sections 6250 et seq.

Exemptions Must Be "Narrowly Construed"
If you determine that any or all of the information is exempt from disclosure, I ask that you reconsider that determination in view of Proposition 59, which has amended the California Constitution to require that all exemptions be "narrowly construed." The newly amended Government Code, section 6250, et seq., may modify or overturn authorities on which you have relied in the past.

Exclusion is Discretionary, Not Mandatory
If you nonetheless determine that the requested records are subject to a still-valid exemption, I would further request that: (1) you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and (2) that, with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest.

Denials Must Be Supported by Citation of Legal Authority
Finally, should you deny part or all of this request, you are required to provide a written response describing the legal authority or authorities on which you rely.

If you need clarification that will help expedite the processing of this request, please contact me by telephone at 510 233 2144 and e-mail at Info@ElectionDefenseAlliance.org.

I look forward to your prompt and professional compliance with this clarifying request.

Sincerely,

Daniel Ashby Co-founder and Director Election Defense Alliance

Daniel Ashby
Co-founder and Director
Election Defense Alliance

Election Defense Alliance is a program of International Humanities Center, a nonprofit organization under Section 501(c)(3) of the IRS Code.

3

EXHIBIT 4

-------- Original Message --------
Subject: RE: CPRA public records request from Election Defense Alliance
Date: Tue, 14 Jul 2009 08:28:58 -0700
From: Kinzle, Doug <dkinzle@co.riverside.ca.us>
To: info@electiondefensealliance.org <info@electiondefensealliance.org>
References: <6f3a6b7d-cd2f-475b-8022-fcd71c70c823@exvs06.cor.rivcnty.lcl>

Mr. Ashby,

I have annotated the text of your June 19 CPRA with further clarification of the items listed. Please see the blue text below. I also believe Mr. Beckham of our office has clarified some items separately, and have so indicated.

Douglas C. Kinzle

Assistant Registrar of Voters

County of Riverside

2724 Gateway Drive

Riverside, CA 92507-0918

(951) 486-7330

-----Original Message-----
From: info@electiondefensealliance.org [mailto:info@electiondefensealliance.org]
Sent: Friday, June 19, 2009 4:59 PM
To: Dunmore, Barbara; Web, Rov
Subject: CPRA public records request from Election Defense Alliance

[eda emblem]

Phone: 877.375.3930

FAX: 877.375.3916

Info@ElectionDefenseAlliance.org

*CALIFORNIA PUBLIC RECORDS ACT (CPRA) REQUEST FOR PUBLIC INFORMATION

Clarification of APRIL 24, 2009 CPRA Request*

June 19, 2009

Ms. Barbara Dunmore

Riverside County Registrar of Voters

2724 Gateway Drive

Riverside, CA 92507-0918

Dear Ms. Dunmore,

The response to our previous public records request that we received

from your office dated May 4, 2009 was non-responsive to a number of our
requests, and requested further direction from EDA.

*   1.   Thank you for providing the document requested in Item 1 of
our request.*

*   2.   You asked for our direction in further responding to Items 2
and 3 in our CPRA request of 04.29.09.*

You provided us with an Excel spreadsheet without any indication of
where the required reconciliation occurs. If a reconciliation is
contained in the spreadsheet, indicate where (what cells) such
reconciliation may be observed. Illustrate where/how you comply with
either of the two sections of the Election Code quoted below:
I have attached the previously sent spreadsheet with the header row showing the source for the data below. I apologize for
inadvertently leaving this row off my first transmission to you. This spreadsheet is used for many purposes and therefore
has a lot or extra data not necessary for the reconciliation process.

   a).   *a reconciliation of the number of signatures on the roster
with the number of ballots recorded on the Ballot
 Statement* can be found, -- EC§15302(b) or if unable, then
On the spreadsheet, add column J to column M to get total in column O. compare this to column Q.

   * b). *   *. . . the number of ballots received from each polling
place shall be reconciled with the number of ballots cast, as
 indicated on the ballot statement.* -- EC§15302(c)
On the spreadsheet, add either column M or AA to column AE and compare this total to column AD.

If the ROV does not have documents that satisfy either of the two legal
requirements [EC§15302 (b) or (c)], please so indicate.

   3.   In Item 4 of our CPRA request of 4.24.09, we requested:

     " . . . logs . . . including but not limited to:

     a). the testing of the ballot definition files,
No log is maintained of proofing the ballot definition files. Paper ballots are proofed by numerous sets of eyes to assure
accuracy. The electronic ballot is then proofed against the paper ballot by the attached procedure.

     * b).* the Logic and Accuracy (L&A) tests performed on all of the
DREs utilized for the November 4 election, and
Mr. Beckham has provided information on this already.

     c). all DRE Results Cartridges uploads. The period covered by
this request is August 1, 2008 to February 28, 2009.*
Mr. Beckham has provided information on this already.

The ROV reply was only partially responsive, addressing only the Logic
and Accuracy testing logs. Please address the requests related to
testing of ballot definition files and DRE Results Cartridge uploads.

We (EDA) would like to view the paper Logic & Accuracy test logs offered
by the ROV.

Unless you indicate to the contrary, we will send a representative to
your office on July 1, 2009 at 1:30 p.m. to view these documents.

The representative may decide to scan or photograph none, some, or all
of the documents presented.

 *4.   We wish to clarify our request for directory listings, stated as
item #4 in our CPRA request of 04.24.09.
*
We request you create directory listings for all computers comprising
the Sequoia Voting System used by Riverside County including, but not
limited to, those computers used to operate:
Mr. Beckham has provided information on this already.

   a).   each of the Optech 400C scanners and their master computer
(each running the WinETP application); and

   b). those computers running the WinEDS and/or Microsoft SQL applications.

   For each computer, issue the following command at the c:\ command
prompt:

      dir c:*.* /s / > c:\stationname_cdrive_directorylisting.txt
   and, if there is a d: drive as well, at the d:\ command prompt:

      dir d:*.* /s > d:\stationname_ddrive_directorylisting.txt

    where "stationname" is to be the full computer name of the computer
and which can be found on each computer by   selecting the following
menus and tab in turn:

   Start -> Control Panel -> System -> Computer Name.

This electronic text file will be created at the root level of drive c:
(or drive d:) and will contain filesize and last date modified information.
Do not delete or alter any of the information in the text files
produced. We are requesting each of those text files as a public record.

5.   The ROV response to Item 5 of our CPRA request of 04.29.09
was to refuse to release the requested databases stating that
   "the election's SQL database is proprietary."

Under what authority are records of the vote in the election database
deemed to be proprietary? By definition, a database is comprised of
data, not program code. The data in the database is public information
and subject to release under the CPRA. Voter registration records and
election results are public. Cal. Elec. Code §§ 606, 17120, 17122.

The fact that public records may be stored in a computer does not affect
their status as public records. Cal. Govt Code § 6254.9(d).
Therefore, we again request the release of these election database
records, specifically all the .MDB files.

Assistant Registrar Kinzle's response letter of May 4, 2009, included
the statement that " . . . the files are a record of the election and
sealed under the same conditions as the ballots for the 22 month
retention period."

We have read the relevant sections of the California Election Code and
find no reference to election databases (or any electronic data of any
kind) in the definition of election materials that are to be sealed and
preserved for 22 months following a federal election, prior to
destruction. Unless you can produce any explicit exemption or
substantiate any exceptional exemption per section 6255 of the
California Public Records Act, please deliver the election database
files as specified in our CPRA letter of 04.29.09.
The database will be provided with the proprietary information redacted. This deduction will take about 30 days to
complete. We will forward the database at that time.

6.   You asked for more information regarding item #6 listed in
our CPRA request dated April 24, 2009.*

We are seeking the following information related to the November 4, 2008
Presidential election from the Sequoia Election Information Management
System (EIMS) used by Riverside County:

   a).   Number of Vote By Mail (VBM) ballots ordered from vendor
394,019
   b).   Number of VBM ballots received by ROV from vendor
394,044
   c).   Number of VBM ballots mailed out
355,786
   d).   Number of VBM ballots returned by voters to ROV
286,491

e).   Number of VBM ballots rejected (challenged) by ROV
4,378
f).   Number of VBM ballots accepted by ROV
282,113

The equivalent to the Sequoia EIMS in the Diebold voting system, is
DIMS-Net. The DIMS-Net application is a Diebold/Premier
system for communicating with the statewide database and can
certainly produce the information requested above which was also
previously implied in item #6 of our original CPRA letter
04.29.09

As an example, an R709.07 Absentee Voter Ballot Statistics report can
be generated by the DIMS-Net application. Please provide us the
functionally equivalent report generated by the Sequoia EIMS system.

Electronic Format
Pursuant to Government Code section 6253.9, subdivision (a)(2), I ask
that any information we seek that constitutes an identifiable public
record, and that is available in an electronic format, be provided in
the same electronic format in which you hold the information, or in the
format that has been used by your agency to create copies for your own
use or for provision to other agencies. Cal. Gov*t Code § 6253.9(a)(2).

10-Day Response
I ask that your determination in response to this present public records
request dated June 19, 2009, be relayed to me within 10 days of your
receipt of this request, and an even earlier reply if you can make that
determination without having to review the records in question.

Cost Disclosure
I ask that you notify me of any costs involved prior to incurring those
costs.

Terms of Request Are Severable
Please treat the terms of this request as severable. That is, should you
determine that one or more portions of the requested information cannot
be released, please state the legal basis for such non-release, and
release the remaining portions expeditiously as required by Government
Code Sections 6250 et seq.

Exemptions Must Be "Narrowly Construed"
If you determine that any or all of the information is exempt from
disclosure, I ask that you reconsider that determination in view of
Proposition 59, which has amended the California Constitution to require
that all exemptions be "narrowly construed." The newly amended

Government Code, section 6250, et seq., may modify or overturn authorities on which you have relied in the past.

Exclusion is Discretionary, Not Mandatory
If you nonetheless determine that the requested records are subject to a still-valid exemption, I would further request that: (1) you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and (2) that, with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest.

Denials Must Be Supported by Citation of Legal Authority
Finally, should you deny part or all of this request, you are required to provide a written response describing the legal authority or authorities on which you rely.

If you need clarification that will help expedite the processing of this request, please contact me by telephone at 510 233 2144 and e-mail at Info@ElectionDefenseAlliance.org.

I look forward to your prompt and professional compliance with this clarifying request.

Sincerely,

Daniel Ashby
Co-founder and Director
Election Defense Alliance

Election Defense Alliance is a program of International Humanities Center, a nonprofit organization under Section 501(c)(3) of the IRS Code.

EXHIBIT 5

-------- OriginalMessage--------
Subject: Re: Database files prepared at request from Election Defense Alliance
Date: Fri, 14 Aug 2009 09:47:09 -0700
From: Election Defense Alliance <info@electiondefensealliance.org>
Organization: Election Defense Alliance
To: Kinzle, Doug <dkinzle@co.riverside.ca.us>

eda banner

TO:

```
Douglas C. Kinzle
Assistant Registrar of Voters
County of Riverside
2724 Gateway Drive
Riverside, CA  92507-0918
(951) 486-7330
```

August 14, 2009

Mr.Kinzle,

I'm writing to affirm that Election Defense Alliance does wish to receive the complete electronic database record for the Nov. 2008 election in Riverside County, which according to your letter of August 11 has been collected into the following list of files, copied to 3 DVDs:

```
The following files are available now.  Please advise if you want to continue with your request
for these files.

RIV_20081104_Canvass_DB_1_dbset.bak                      900,830,720
RIV_20081104_Canvass_DB_2_dbset.bak                    1,122,735,616
RIV_20081104_Canvass_DB_3_dbset.bak                    1,123,849,728
RIV_20081104_Canvass_DB_4_dbset.bak                    1,126,405,632
RIV_20081104_Canvass_Final_dbset.bak                   1,170,380,288
RIV_20081104_PreLogic_DB_dbset.bak                       154,113,536
RIV_20081104_Pre_Election_day_DB_dbset.bak               339,318,272
RIV_20081104_Pre_Election_day_DB_Final_dbset.bak                     694,982,144
RIV_20081104_Pre_Prov_Process_dbset.bak                1,093,966,336
```

We assume that the files will be directly accessible to us without the necessity for any additional file translation, and that the data is in human-readable form, written in English and numerals.

If this is not the case, please notify me directly with any additional clarification about the format of the data as

prepared.

Our agreement to pay for this data is contingent upon the conditions of accessibility and readability I have just defined.

In your letter of August 11, you elaborated on the basis for the $ 105 charge, stating that

```
"The remaining data is stored in large databases that required 11 hours of download time and then
additional effort to burn to the DVDs and proof the process to assure that the files were
complete."
```

Election Defense Alliance agrees to pay the $ 105 assessment, although we note for the record that <u>we do so under protest</u>, in our belief based on
statute and case law, that the charges are improper.

We refer to a court precedent on these issues, *North County Parents vs Board of Education,* which established that staff time *may not* be charged for the fulfillment of public records requests; nor may public officials charge for machine time when preparing PRR responses.

Please send an <u>itemized invoice clearly detailing the labor charges</u> amounting to this $ 105 assessment, addressed to:

EDA c/o Daniel Ashby
1511-1/2 Yuba Ave.
San Pablo, CA 94806

Please mail the DVDs to this address:

EDA c/o Tom Courbat
24387 Saddlebag Ct.
Murrieta, CA 92562-6103

Thank you,

Daniel Ashby
Co-Founder, Director
ElectionDefenseAlliance.org

EDA mail: Dan@electiondefensealliance.org
Phone: 510.233.2144
Alt. Phone: 510.275.5723
Fax: 510.740.0572
Fax messages will be transmitted as PDF attachments via e-mail.

EXHIBIT 6

-------- OriginalMessage-------
   Subject:RE: Database files prepared at request from Election Defense Alliance
      Date: Mon, 17 Aug 2009 12:56:28 -0700
     From: Kinzle, Doug <dkinzle@co.riverside.ca.us>
       To:info@electiondefensealliance.org <info@electiondefensealliance.org>
References:<25636827-f916-4148-8aaf-b81d5074dd20@exvs07.cor.rivcnty.lcl>

```
Mr. Ashby,

The files are the SQL tables of the WinEDS software.  The can be made human readable through the
use of the proper tool (SQLsoftware).

As stated previously, the $105 is the cost of 3 DVDs holding the referenced files.  This is a
rate approved by the Board of supervisors for similar DVDs that are purchased with voter file
data.  The purpose of having these set rates is to avoid the administrative expense of time
keeping, record storage, and invoice preparation for repetitive products that products that we
sell.  These rates are reviewed annually and determined to be appropriate in accordance with
Board of Supervisors Policy B-4.

Douglas C. Kinzle
Assistant Registrar of Voters
County of Riverside
2724 Gateway Drive
Riverside, CA  92507-0918
(951) 486-7330
-----Original Message-----
```
From: info@electiondefensealliance.org [mailto:info@electiondefensealliance.org]
```
Sent: Friday, August 14, 2009 9:47 AM
To: Kinzle, Doug
Subject: Re: Database files prepared at request from Election Defense Alliance


eda banner

TO:

Douglas C. Kinzle
Assistant Registrar of Voters
County of Riverside
2724 Gateway Drive
Riverside, CA  92507-0918
(951) 486-7330


August 14, 2009


Mr.Kinzle,

I'm writing to affirm that Election Defense Alliance does wish to
receive the complete electronic database record for the Nov. 2008
election in Riverside County, which according to your letter of August
11 has been collected into the following list of files, copied to 3 DVDs:

The following files are available now.  Please advise if you want to continue
with your request for these files.

RIV_20081104_Canvass_DB_1_dbset.bak       900,830,720
RIV_20081104_Canvass_DB_2_dbset.bak     1,122,735,616
RIV_20081104_Canvass_DB_3_dbset.bak     1,123,849,728
RIV_20081104_Canvass_DB_4_dbset.bak     1,126,405,632
RIV_20081104_Canvass_Final_dbset.bak    1,170,380,288
RIV_20081104_PreLogic_DB_dbset.bak        154,113,536
```

```
RIV_20081104_Pre_Election_day_DB_dbset.bak       339,318,272
RIV_20081104_Pre_Election_day_DB_Final_dbset.bak            694,982,144
RIV_20081104_Pre_Prov_Process_dbset.bak    1,093,966,336
```

We assume that the files will be directly accessible to us without the
necessity for any additional file translation, and that the data is in
human-readable form, written in English and numerals.

If this is not the case, please notify me directly with any additional
clarification about the format of the data as prepared.
Our agreement to pay for this data is contingent upon the conditions of
accessibility and readability I have just defined.

In your letter of August 11, you elaborated on the basis for the $ 105
charge, stating that

"The remaining data is stored in large databases that required 11 hours of
download time and then additional effort to burn to the DVDs and proof the
process to assure that the files were complete."

Election Defense Alliance agrees to pay the $ 105 assessment, although
we note for the record that _we do so under protest_, in our belief
based on
statute and case law, that the charges are improper.

We refer to a court precedent on these issues,   /North County Parents
vs Board of Education, /which established that staff time /may not/ be
charged for the fulfillment of public records requests; nor may public
officials charge for machine time when preparing PRR responses.

Please send an _itemized invoice clearly detailing the labor charges_
amounting to this $ 105 assessment, addressed to:

*EDA c/o Daniel Ashby
1511-1/2 Yuba Ave.
San Pablo, CA 94806*

Please mail the DVDs to this address:

*EDA c/o Tom Courbat
24387 Saddlebag Ct.
Murrieta, CA 92562-6103*

Thank you,

Daniel Ashby
Co-Founder, Director
ElectionDefenseAlliance.org <http://www.electiondefensealliance.org>

EDA mail: Dan@electiondefensealliance.org
<mailto:%20Dan@electiondefensealliance.org>
Phone: 510.233.2144
Alt. Phone: 510.275.5723
Fax: 510.740.0572
**Fax messages will be transmitted as PDF attachments via e-mail.

Election Defense Alliance is a program of International Humanities
Center, a tax-exempt nonprofit organization under Section 501(c)(3) of
the IRS Code